CASE SUMMARY

Complaint against the staff of the Kowloon-Canton Railway Corporation for failure to follow the ticket-checking procedure properly

The Complaint

The complainant complained that the Kowloon-Canton Railway Corporation (KCRC) accused him of taking a train at the Lo Wu Station without a valid ticket before conducting a thorough investigation.

Background Information Provided by the Complainant

2. The complainant alleged that on one evening in December 1998, he was intercepted by a KCRC Station Assistant for ticket inspection in the paid area of the Lo Wu Station. He refused to produce his Octopus Card on the spot and requested to see the Station Control Officer. At the Station Control Office, the complainant produced his Octopus Card as requested by the Station Control Officer. The Station Assistant took his Octopus Card and went out of the Station Control Office right away.

3. After a few minutes, the Station Assistant returned to the Station Control Office and told the Station Control Officer that the ticket was found to be invalid. The complainant asked the Station Control Officer to cross-check his Octopus Card in front of him but was refused. The Station Control Officer then told the complainant that he would be prosecuted under the Kowloon-Canton Railway Corporation By-laws.

4. In May 1999, the complainant was acquitted by the court. Subsequently, he instituted civil proceedings in the court to claim against KCRC, but his claim was dismissed by the court. Feeling aggrieved by the improper procedures of the KCRC staff in checking his Octopus Card and the series of follow-up actions, he, therefore, lodged a complaint with this Office in June last year.

Investigation

5. According to KCRC, the complainant refused to let the Station Assistant check his Octopus Card in the paid area of the Lo Wu Station on that evening. He only produced his Octopus Card upon the request of the Station Control Officer at the Station Control Office. The Station Assistant then followed the normal procedure and took his Octopus Card to the paid area for a preliminary check by placing it on the sensor of the entrance/exit gate. After that, the Station Control Officer used a portable ticket verification device to cross-check the Octopus Card in front of the complainant. The result showed that the Octopus Card had no record of an entry code of the Lo

Wu Station. In other words, the complainant entered the paid area without a valid ticket.

6. Having examined the case, this Office opined that for the sake of fairness, the KCRC staff should check tickets in front of passengers. As KCRC had since revised its ticket-checking procedure whereby its staff had to check tickets in front of the passengers as far as practicable and draw the passengers' attention to the results shown on the ticket verification device, we considered that the case should be concluded and the complainant was informed accordingly.

Further Complaint Lodged by the Complainant

7. The complainant wrote to this Office again in October last year, accusing KCRC of providing incorrect information. He said the Station Control Officer had 'never ever' used the portable ticket verification device to check his Octopus Card in front of him. He considered it maladministration on the part of KCRC in jumping to the conclusion that his Octopus Card had no record of an entry code of the Lo Wu Station before conducting a thorough investigation. He requested this Office to conduct a full investigation and gave his Octopus Card to us for verification.

8. We forwarded the complainant's Octopus Card to the Creative Star Limited (CSL) for verification. CSL later confirmed that the Octopus Card did have a record of an entry code of the Lo Wu Station on that particular evening.

9. Since there was prima facie evidence to show that KCRC might have accused the complainant of taking a train without a valid ticket before conducting a thorough investigation, this Office decided to conduct an investigation into the case.

Explanation Given by KCRC

10. As to why the result of verification by CSL contradicted that of ticket-checking by the two KCRC staff members, KCRC suggested that the complainant might have approached the Ticket Office at another station later that evening and told the counter staff there that he had used his Octopus Card to enter the Lo Wu Station earlier in the day but could not use it to exit. The staff of the Ticket Office then updated his Octopus Card by adding an entry code of the Lo Wu Station to it so that he could use the card to exit. Hence, there was a record of an entry code of the Lo Wu Station on the complainant's Octopus Card on the evening in question.

Observations and Opinions

11. To find out whether the complainant had, as suggested by KCRC,

asked the staff of the Ticket Office to update his Octopus Card for exit purpose so that his card had a record of an entry code of the Lo Wu Station on the evening in question, we asked CSL to check the card again.

12. After rechecking the complainant's Octopus Card, CSL said the card had no record of having updated entry information. In other words, KCRC's suggestion that the complainant had asked the Ticket Office staff to update his Octopus Card was unfounded.

13. Unless there was evidence to prove what KCRC had suggested was true, we believed that the complainant had entered the paid area with a valid ticket on the evening in question.

14. This Office also noted that the procedural guidelines on ticket-checking laid down by KCRC for compliance by its staff were inadequate. As a result, the staff of KCRC had, in the absence of sufficient evidence, indiscreetly accused the complainant of taking a train without a valid ticket and taken a series of follow-up actions against him.

Conclusion

15. Since the Octopus Card used by the complainant to enter the paid area of the Lo Wu Station on the evening in question was, after being examined by CSL, found to have a record of an entry code of the Lo Wu Station on the evening in question and had no record of having updated entry information, this Office believed that the suggestion made by KCRC i.e. the complainant had approached the Ticket Office to have his Octopus Card updated was unfounded. Moreover, the procedure adopted by KCRC in taking prosecution action against passengers was indeed ill-considered. This Office therefore concluded that the complaint against KCRC was **substantiated**.

16. This Office was pleased to note that KCRC had amended its procedural guidelines by requiring its staff to print the result shown on the ticket verification device for prosecution purposes.

Recommendations

17. In view of the above, The Ombudsman recommended KCRC to -

(a) apologise to the complainant for the inconvenience caused to him by this incident;

(b) compensate the complainant for the actual losses he had suffered; and

(c) ensure that its staff were familiar with all the guidelines issued by the company so as to avoid

recurrence of similar incidents.

Response from KCRC

18. At a subsequent meeting with staff of this Office, representatives of KCRC pointed out that there were still several doubtful points about the complainant in the incident. They also made clarifications on some of our comments in the draft investigation report.

19. Regarding our recommendations in the draft investigation report, KCRC was willing to apologise to the complainant for the inconvenience caused to him by this incident. Meanwhile, KCRC had also revised its prosecution procedure and taken steps to ensure that its staff were familiar and would comply with the guidelines issued by the company. As to our recommendation on compensation, KCRC proposed to absolve the complainant from the outstanding court costs he owed the company. The complainant had sued KCRC for damages over its improper ticket-checking procedure, but his claim was dismissed by the court and he was ordered to pay costs.

Final Remarks

20. Having considered the points of doubt raised and the clarifications made by KCRC, this Office maintained that the conclusion of the investigation report should remain unchanged. As to the counter-proposal made by KCRC to compensate the complainant, this Office considered it quite appropriate and acceptable.

Office of The Ombudsman
Ref : OMB 2000/2834
December 2001